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IV 2267238

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

CASE NUMBER: IV 2267238

SUBJECT: Daniel Genao, Deputy, #[redacted]

STATION/UNIT/BUREAU: Industry Station, Region III

DATE/TIME/DAY: May 6, 2010, 2205 hours, Thursday

LOCATION: [redacted] Francisquito Avenue, La Puente, CA 91744

Synopsis:

On May 6, 2010, Subject Daniel Genao, #[redacted] assigned to Industry Station for six years, was working a one person unit (147B EM's) in the unincorporated City of La Puente.

Subject Genao conducted a patrol check at the [redacted] The [redacted] is known by Industry patrol deputies as a haven for gang members and narcotics trafficking. Subject Genao saw a male (Suspect [redacted]) and female (Suspect [redacted]) arguing in the parking lot. Subject Genao stopped his vehicle to contact the suspects. While approaching the suspects, Suspect [redacted] spontaneously stated "Come on, all I got is some meth." Subject Genao asked Suspect [redacted] if he had anything else. Suspect [redacted] said "I don't think so, you can check."

Subject Genao conducted a search of Suspect [redacted] and recovered a loaded firearm from the right side waistband of his pants. Subject Genao also recovered a clear plastic baggie containing methamphetamine from Suspect [redacted] right front pants pocket. Suspect [redacted] was arrested for possession of narcotics while possessing a firearm.

Suspect [redacted] prevented Subject Genao from placing Suspect [redacted] into the patrol vehicle by arguing and impeding his path to the patrol vehicle. Subject Genao ordered Suspect [redacted] several times to step away. Suspect [redacted] was subsequently arrested for interfering and/or obstructing a law enforcement officer in his/her duties

The above information was obtained from Subject Genoa's incident report and probable cause declaration. Subject Genao wrote and submitted his Incident Report, Probable Cause Declaration, Medical forms, and Booking slips before the end of his shift. **(Exhibit A- ICIB Casebook Page 9)**

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On May 7, 2010, Industry Station Detective Smiley was conducting follow-up interviews of arrestee's when he contacted Suspect [redacted] in the booking area of Industry Station Jail. While questioning Suspect [redacted], she told a different version of the arrest as written by Subject Genao.

She told Detective Smiley that Subject Genao found the gun in a planter and not on Suspect [redacted] as written by Subject Genao. She also told Detective Smiley the [redacted] of the [redacted] was outside in the parking lot talking to Suspect [redacted] when Subject Genao arrived.

Detective Smiley contacted Witness [redacted] who is the [redacted] of the [redacted] and was present when Subject Genoa drove into the parking lot. Witness [redacted] said he and Suspect [redacted] were walking away from room # [redacted] toward the office to discuss Suspect [redacted] vacating the [redacted]

Witness [redacted] said he saw a patrol car drive into the parking lot. Suspect [redacted] suddenly walked quickly in the direction of the stairway located on the north end of the building. Witness [redacted] saw Suspect [redacted] stop and look into a trash can. Suspect [redacted] then walked directly to the planter on the north side of the stairway. He appeared to use both hands to toss an unknown object down into the planter. Suspect [redacted] then quickly walked back in the direction of Subject Genao who was now outside his patrol car, ordering Suspect [redacted] to walk to him.

Witness [redacted] said he did not see Subject Genao find a gun on Suspect [redacted] or in the planter, because he was distracted by the actions of Suspect [redacted] who was yelling at Subject Genao. Witness [redacted] went on to explain that the surveillance equipment was not working during the incident.

Prior to contacting Suspect [redacted] Detective Smiley notified Sergeant [redacted] # [redacted] of his findings. They agreed Detective Smiley should contact Subject Genao to clarify and confirm the details in his report.

At approximately 1200 hours, Detective Smiley contacted Subject Genao by telephone. Detective Smiley explained to Subject Genao what he had been told by Suspect [redacted] and Witness [redacted]. Subject Genao told Detective Smiley the suspect and witness were correct and that Suspect [redacted] had tossed the handgun in the planter and he (Genao) had recovered it from the planter after detaining Suspect [redacted] Detective Smiley terminated the conversation.

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Detective Smiley contacted Suspect [redacted] who told him he and Witness [redacted] were outside his room when a patrol car entered the parking lot. He said Witness [redacted] produced a handgun and handed it to him while asking Suspect [redacted] to take it to the front counter. Suspect [redacted] panicked, took the handgun, and tossed it into the planter before being detained by Subject Genao. **(Exhibit A- ICIB Casebook Page 18)**

As a result of the investigation by Detective Smiley the suspects were immediately released and no charges were filed with the District Attorney.

On May 11, 2010, the Sheriff's Department's Internal Criminal Investigations Bureau opened an investigation regarding an allegation that Subject Genao, while assigned to patrol duties, submitted an arrest report and made false material statements under oath of a Probable Cause Declaration to a Superior Court judge.

On June 8, 2010, the District Attorney filed two counts of perjury (118.1 P.C. and 118(A) P.C.) against Subject Genao.

On July 12, 2011, Subject Genao appeared in Los Angeles Superior Court, Department 50, for a plea agreement hearing with Judge David Horowitz. Subject Genao pleaded "Nolo Contendere" to one misdemeanor count of Filing a False Police Report – 118.1 P.C. An additional count of Perjury- 118 P.C., was dismissed as a result of the plea agreement. **(Exhibit B)**

On August 18, 2011, Internal Affairs Bureau was assigned the administrative investigation. The following is a summary of Internal Affairs Bureau investigation regarding the case in question.

<u>DEPARTMENT WITNESS STATEMENTS</u>

On June 17, 2010 Internal Criminal Investigation Bureau Sergeant Cassidy, #[redacted] interviewed Detective Dave Smiley.

Detective Smiley, #[redacted] said he was working a weekend duty assignment as a detective when he received an in-custody report involving Suspect [redacted] and Suspect [redacted]

Detective Smiley said he interviewed Suspect [redacted] believing she might provide information regarding the stolen gun. They went over her detention and arrest, and during the interview Suspect [redacted] told him she saw Subject Genao recover the handgun from a planter on the side of the parking lot.

Detective Smiley wanted to corroborate her story and proceeded to the [redacted] to contact Witness [redacted] who was the [redacted] on May 6, 2010. Detective Smiley said Witness [redacted] told him he had been in the parking lot talking with Suspect [redacted] when a marked Sheriff's patrol car drove into the parking lot. Suspect [redacted] quickly walked away toward a planter and made a tossing motion. Suspect [redacted] walked toward the deputy where he was detained.

Witness [redacted] said he never saw the deputy recover a gun, but he knew a gun had been recovered, because the deputy came up to him later and told him that he "shouldn't be fucking around like that." Witness [redacted] said he believed the deputy thought he was somehow involved with Suspect [redacted] and the handgun.

Detective Smiley said that based on the information he had obtained, he believed there may have been a problem with the initial investigation and report submitted by Subject Genao. He notified his supervisor who told him to call Subject Genao to resolve the matter.

Detective Smiley called Subject Genao and explained the results of his interviews with Suspect [redacted] and Witness [redacted] Detective Smiley told Subject Genao he needed him to tell him what happened at the location. There was silence on the telephone for a minute and then Subject Genao said "yeah, that's what happened." Detective Smiley was stunned and told Subject Genao to clarify what he meant. Subject Genao said "What they're telling you, that's what happened."

Detective Smiley said he asked Subject Genao why he would have done such a "silly thing," and that (based on the totality of the circumstances) he had a legal arrest the way it "went down." Detective Smiley said Subject Genao said something like, I just wanted to make it stick (referring to the arrest and criminal charges). Detective Smiley ended the conversation with Subject Genao.

Detective Smiley immediately notified his supervisors. He then interviewed Suspect [redacted] who told him that the [redacted] gave him the handgun, which Suspect [redacted] tossed in the planter. **(Exhibit A- ICIB Casebook Pages 4-7)**

On July 7, 2010, Sergeant Cassidy interviewed **Sergeant Douglas Creighton, #**[redacted] who was the Watch Commander on May 6, 2010. Prior to the interview, Sergeant Cassidy had Sergeant Creighton review the original Probable Cause Declaration (PCD) form with the file number 910-06325-1432-151.

Sergeant Creighton said he recognized and signed that document. Sergeant Creighton said Subject Genao presented him with both a written statement (on the PCD) and an oral statement. Sergeant Creighton said the oral statement matched what was written on the PCD when it was presented to him by Subject Genao.
(Exhibit A- ICIB Casebook Page 7)

NON-DEPARTMENT WITNESS STATEMENTS

[redacted]:
On May 7, 2007, Industry Station Detective Smiley contacted Suspect [redacted] in the booking area of Industry Station Jail. Suspect [redacted] told Detective Smiley she was inside her room waiting for Suspect [redacted] to return from discussing a refund with the [redacted].

> **IAB Note: She later told ICIB Investigators she was in a truck when the patrol car drove into the parking lot. (Exhibit A- ICIB Casebook Page 4)**

She heard loud voices coming from the parking lot. She exited her room and saw a patrol car stopped in the parking lot with a deputy (Genao) standing beside the vehicle. Subject Genao was ordering Suspect [redacted] to walk toward him. When Suspect [redacted] reached Subject Genao, he was placed in the backseat.

Suspect [redacted] approached Subject Genao to tell him about how the [redacted] had propositioned her earlier in the evening. Subject Genao told her to back away as he walked toward the outside stairway on the north end of the building. She followed and saw Subject Genao knock over a trash can and look through its contents. Subject Genao next looked into a planter located on the north side of the planter and recovered a handgun. As Subject Genoa walked back to the patrol car to secure the weapon, she continued to ask him why he was arresting Suspect [redacted]

Detective Smiley told her he believed she was lying to protect Suspect [redacted]. She insisted Subject Genao found the gun in a planter and not on Suspect [redacted] She also told Detective Smiley the [redacted] was outside in the parking lot talking to Suspect [redacted] when Subject Genao arrived. She claimed she had been walking in and out of the room loading her car, while Suspect [redacted] spoke with the [redacted].
(Exhibit A- ICIB Casebook Pages 18-20)

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[redacted]:

Detective Smiley contacted Witness [redacted] who is the [redacted] of the [redacted] and was present when Subject Genoa drove into the parking lot. Witness [redacted] said he and Suspect [redacted] were walking away from room # [redacted] toward the office to discuss Suspect Valdez vacating the [redacted].

Witness [redacted] saw a patrol car drive into the parking lot. Suspect [redacted] suddenly walked quickly in the direction of the stairway located on the north end of the building, as Witness [redacted] immediately stopped walking.

Witness [redacted] saw Suspect [redacted] stop and look into a trash can. Suspect Valdez then walked directly to the planter on the north side of the stairway. He appeared to use both hands to toss an unknown object down into the planter. Suspect [redacted] then quickly walked back in the direction of Subject Genao, who was now outside his patrol car ordering Suspect [redacted] to walk to him.

Witness [redacted] said he saw Subject Genao secure Suspect [redacted] in the patrol vehicle, as Suspect [redacted] approached pleading with him to release Suspect [redacted]. Subject Genao approached Witness [redacted] and told him to "quit fucking around" and that "the guy had a gun."

Witness [redacted] said he did not see Subject Genao find the gun on Suspect [redacted] or in the planter because he was distracted by the actions of Suspect [redacted]. Witness [redacted] went on to explain that the surveillance equipment was not working during the incident. **(Exhibit A- ICIB Casebook Page 20)**

[redacted]

Detective Smiley contacted Suspect [redacted] who told him he and Witness [redacted] were outside his room when a patrol car entered the parking lot. He said Witness [redacted] produced a handgun and handed it to him while asking Suspect [redacted] to take it to the front counter. Suspect [redacted] panicked, took the handgun, and tossed it into the planter before being detained by Subject Genao. **(Exhibit A- ICIB Casebook Page 21)**

Suspect [redacted] is currently [redacted] CCHRS printout included with this review. **(Exhibit E)**

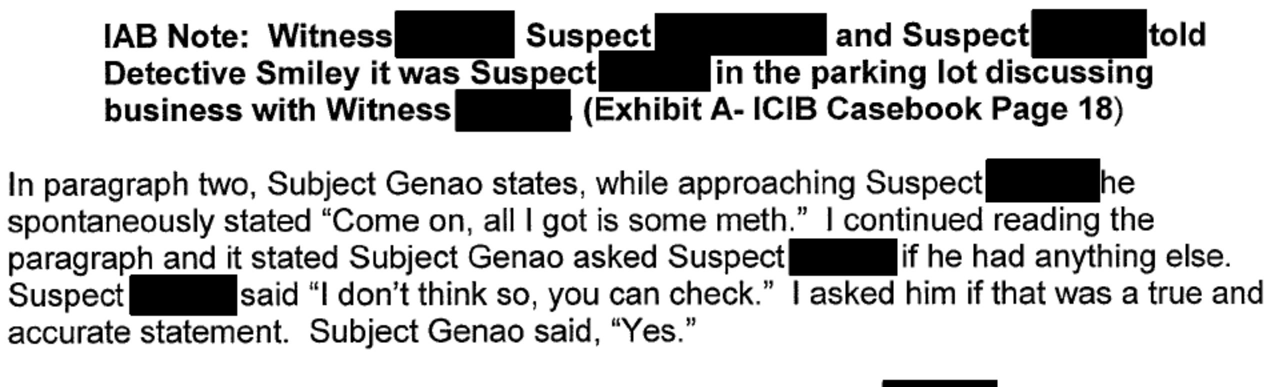
INTERNAL AFFAIRS BUREAU
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SUBJECT STATEMENT

Subject Daniel Genao was interviewed on January 25, 2012 by Internal Affairs Bureau Sergeants Hector Velasquez and Slade Carrizosa. Subject Genao was represented by his attorney Greg Emerson. The interview was conducted at the Internal Affairs Bureau office in the City of Commerce. The interview was digitally recorded and transcribed. The interview transcripts have been included with this case.

I provided Subject Genao with copies of his Incident Report, Probable Cause Declaration, Medical forms, and Booking slips. **(Exhibit A- ICIB Casebook**)

I called his attention to the Incident Report and asked him if he had authored it; he said "Yes." I asked Subject Genao about the first paragraph where he wrote he drove into the parking lot of the [redacted] and observed the suspects arguing. Subject Genao said the statement was true and accurate.



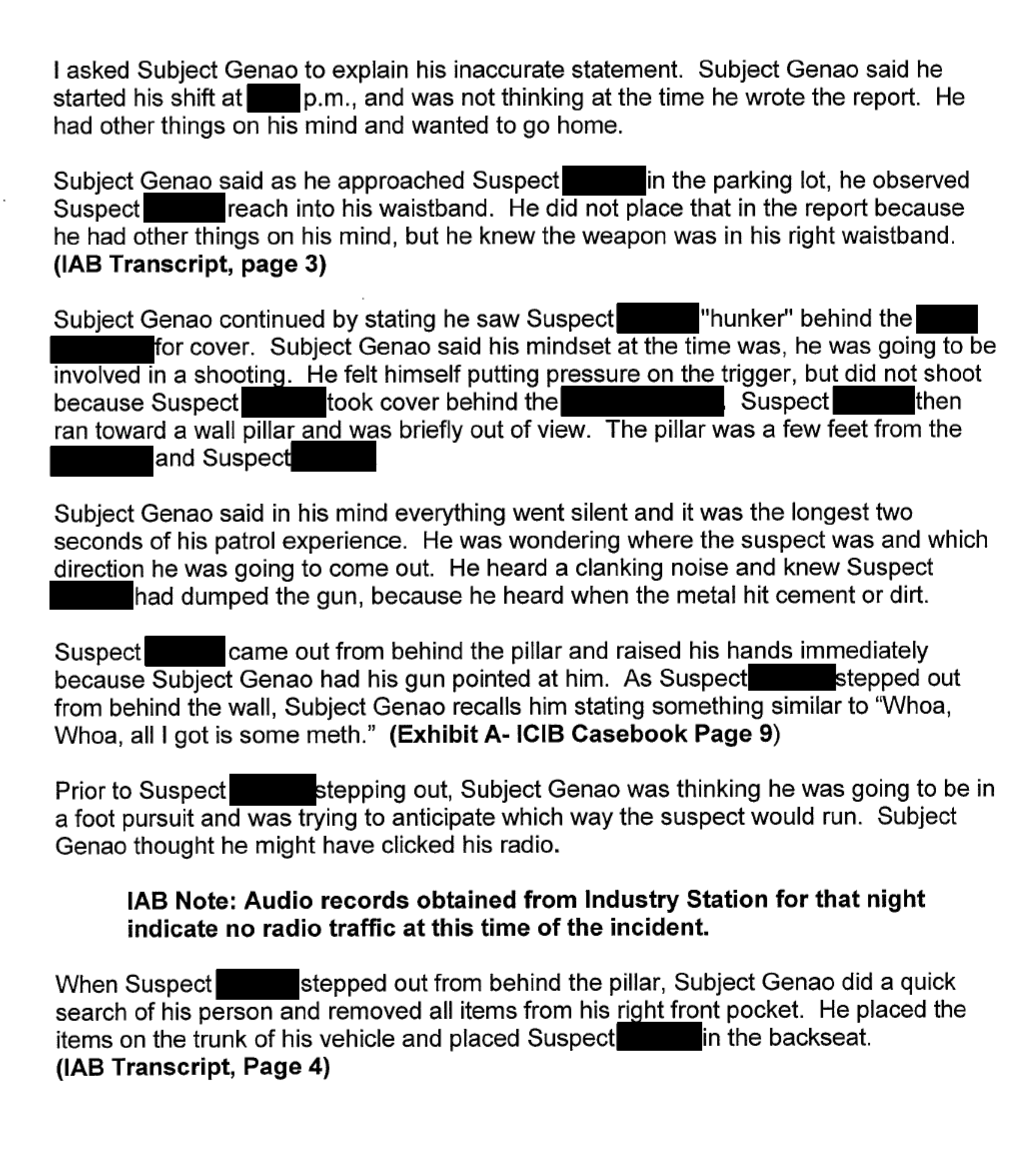
> **IAB Note: Witness [redacted] Suspect [redacted] and Suspect [redacted] told Detective Smiley it was Suspect [redacted] in the parking lot discussing business with Witness [redacted] (Exhibit A- ICIB Casebook Page 18**)

In paragraph two, Subject Genao states, while approaching Suspect [redacted] he spontaneously stated "Come on, all I got is some meth." I continued reading the paragraph and it stated Subject Genao asked Suspect [redacted] if he had anything else. Suspect [redacted] said "I don't think so, you can check." I asked him if that was a true and accurate statement. Subject Genao said, "Yes."

> **IAB Note: This exchange took place after Suspect [redacted] stepped toward Subject Genao, after having run behind a wall. (IAB Transcript, Page 4)**

I continued reading the paragraph where it states, "While conducting a search on Suspect One, I recovered a loaded firearm concealed in his right side pants waistband." I asked Subject Genao if that was a true and accurate statement. He said it was inaccurate.

I continued and asked him if the paragraph he wrote regarding finding one clear plastic baggie containing methamphetamine in the suspect's right front pocket was true. He said "Yes."



I asked Subject Genao to explain his inaccurate statement. Subject Genao said he started his shift at [redacted] p.m., and was not thinking at the time he wrote the report. He had other things on his mind and wanted to go home.

Subject Genao said as he approached Suspect [redacted] in the parking lot, he observed Suspect [redacted] reach into his waistband. He did not place that in the report because he had other things on his mind, but he knew the weapon was in his right waistband. **(IAB Transcript, page 3)**

Subject Genao continued by stating he saw Suspect [redacted] "hunker" behind the [redacted] for cover. Subject Genao said his mindset at the time was, he was going to be involved in a shooting. He felt himself putting pressure on the trigger, but did not shoot because Suspect [redacted] took cover behind the [redacted]. Suspect [redacted] then ran toward a wall pillar and was briefly out of view. The pillar was a few feet from the [redacted] and Suspect [redacted]

Subject Genao said in his mind everything went silent and it was the longest two seconds of his patrol experience. He was wondering where the suspect was and which direction he was going to come out. He heard a clanking noise and knew Suspect [redacted] had dumped the gun, because he heard when the metal hit cement or dirt.

Suspect [redacted] came out from behind the pillar and raised his hands immediately because Subject Genao had his gun pointed at him. As Suspect [redacted] stepped out from behind the wall, Subject Genao recalls him stating something similar to "Whoa, Whoa, all I got is some meth." **(Exhibit A- ICIB Casebook Page 9**)

Prior to Suspect [redacted] stepping out, Subject Genao was thinking he was going to be in a foot pursuit and was trying to anticipate which way the suspect would run. Subject Genao thought he might have clicked his radio.

> **IAB Note: Audio records obtained from Industry Station for that night indicate no radio traffic at this time of the incident.**

When Suspect [redacted] stepped out from behind the pillar, Subject Genao did a quick search of his person and removed all items from his right front pocket. He placed the items on the trunk of his vehicle and placed Suspect [redacted] in the backseat. **(IAB Transcript, Page 4)**

Subject Genao was asked by his attorney to further explain what was going on in his mind as he wrote his report. Subject Genao said as he secured the location, he was thinking Suspect [redacted] "had the drop" on him. As he transported Suspect [redacted] to the station, Subject Genao told Suspect [redacted] that he had gotten the drop on him. Suspect [redacted] responded with a chuckle.

Subject Genao said he kept playing the incident in his mind and it took him longer than usual to book the suspects and evidence. He kept thinking to himself "I came close to getting myself capped or killed." He left the station at 2:00 a.m. and drove to the local 7-11. While at the 7-11, the events leading up to the arrest continued to play in his mind. He kept thinking of his wife, his daughters and thought of calling home. At that moment he thought he wanted to write his report, get it signed, and go home. **(IAB Transcript, Page 5)**

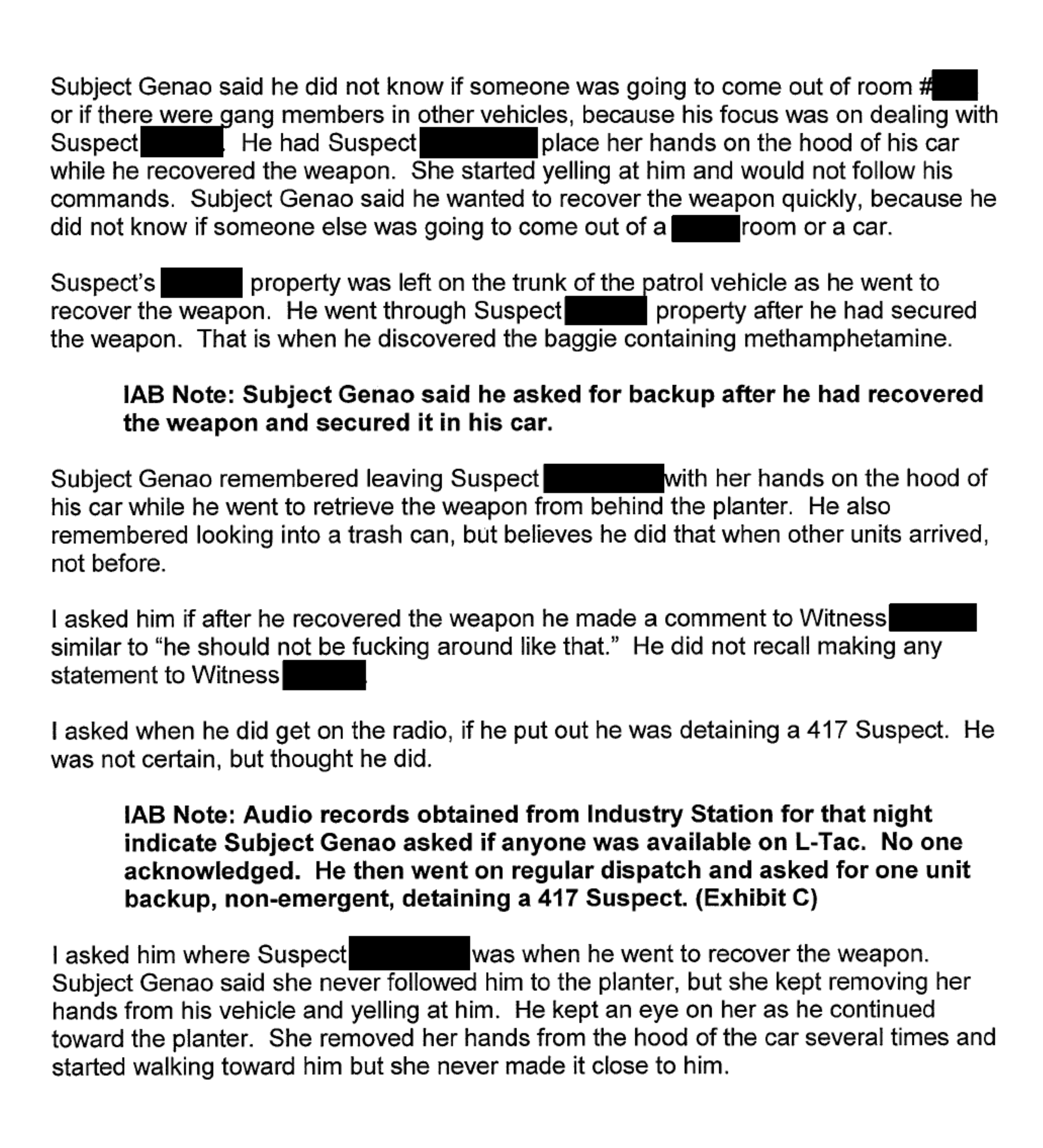
I asked Subject Genao to explain why he had driven to the [redacted] I asked him if that was his routine. Did he know it was frequented by drug dealers and gang members? He said "Yes."

I asked him to explain his thought process based on his experience in the area as he pulled into the parking lot. Subject Genao said he saw the suspects arguing. Suspect [redacted] and Suspect [redacted] were near the open door of room #[redacted] Witness [redacted] was a few feet away from the suspects.

He saw Suspect [redacted] look at him with a "oh shit look on his face." He could tell Suspect [redacted] was thinking which way to go. He exited his car and asked them if everything was okay. I asked him if he thought of calling for backup at that point. He said "No." **(IAB Transcript Pages 6-7)**

I asked Subject Genao if at the time he saw Suspect [redacted] run behind the pillar wall he thought of cover or calling for backup. Subject Genao said he might have keyed his radio, but he was thinking at the time which way Suspect [redacted] would come out. When he did not come out, Subject Genao took one step forward and froze.

Subject Genao said he knew he was exposed standing in front of his patrol car by the front fender with his driver's door open. He heard the clank of metal and then Suspect [redacted] was walking out. He remembered seeing Suspect [redacted] standing a few feet from him (Subject Genao) near the open door of room #[redacted] He said this sequence took 2-3 seconds and he felt himself frozen.



Subject Genao said he did not know if someone was going to come out of room #[redacted] or if there were gang members in other vehicles, because his focus was on dealing with Suspect [redacted]. He had Suspect [redacted] place her hands on the hood of his car while he recovered the weapon. She started yelling at him and would not follow his commands. Subject Genao said he wanted to recover the weapon quickly, because he did not know if someone else was going to come out of a [redacted] room or a car.

Suspect's [redacted] property was left on the trunk of the patrol vehicle as he went to recover the weapon. He went through Suspect [redacted] property after he had secured the weapon. That is when he discovered the baggie containing methamphetamine.

> **IAB Note: Subject Genao said he asked for backup after he had recovered the weapon and secured it in his car.**

Subject Genao remembered leaving Suspect [redacted] with her hands on the hood of his car while he went to retrieve the weapon from behind the planter. He also remembered looking into a trash can, but believes he did that when other units arrived, not before.

I asked him if after he recovered the weapon he made a comment to Witness [redacted] similar to "he should not be fucking around like that." He did not recall making any statement to Witness [redacted].

I asked when he did get on the radio, if he put out he was detaining a 417 Suspect. He was not certain, but thought he did.

> **IAB Note: Audio records obtained from Industry Station for that night indicate Subject Genao asked if anyone was available on L-Tac. No one acknowledged. He then went on regular dispatch and asked for one unit backup, non-emergent, detaining a 417 Suspect. (Exhibit C)**

I asked him where Suspect [redacted] was when he went to recover the weapon. Subject Genao said she never followed him to the planter, but she kept removing her hands from his vehicle and yelling at him. He kept an eye on her as he continued toward the planter. She removed her hands from the hood of the car several times and started walking toward him but she never made it close to him.

I asked Subject Genao why he felt compelled to recover the gun immediately when he had Suspect [redacted] secured in the backseat and Suspect [redacted] on the hood of his car. I asked him why he did not secure Suspect [redacted] then ask for backup. He said his intention was to secure the handgun, deal with Suspect [redacted] and then the open [redacted] room door when backup arrived. Based on prior experience and being familiar with that [redacted] and its patrons, he felt recovering the gun was the safest thing to do and then requesting backup.

I asked him if the reason he did not document his actions on his Incident report was because he was tired. Subject Genao said it was not so much that he was tired but more the experience with the suspects. He had never experienced what he did that night and felt an urgency to go home because he felt he had been given a second chance to live.

Sergeant Carrizosa asked Subject Genao why he wrote he found the gun in his waistband instead of the planter. Subject Genao said it was a “stupid shortcut” he took, because he wanted to go home to his family. It was a mistake on his part. At the time and in his mind it was shorter to write the report the way he did, rather than the truth.

Sergeant Carrizosa asked Subject Genao to clarify if he wrote the report knowing that part of the report was untruthful. Subject Genao said at the time he was writing the report he was not thinking “I know this isn’t true.”

Sergeant Carrizosa asked him if he forgot the truth of the incident while he was writing the report. Subject Genao said "No." It was when he got home and was later told by Detective Smiley, on the telephone, that there were issues with the report he turned in. Subject Genao said he admitted to Detective Smiley that the statements given to him by the Witness and Suspect were correct. He said he was not thinking when he wrote the report. Subject Genao said he did not purposely write an untruthful report.

I provided Subject Genao with a copy of a Probable Cause Declaration (PCD). I asked him if the information on the PCD was written by him, he said “Yes.”

I asked him if wrote the PCD and ran the arrest by the Watch Sergeant prior to writing the incident report. He said “Yes.” I called his attention to the narrative and asked him why he wrote he recovered a loaded firearm concealed on Suspect [redacted] and methamphetamine in his pocket. Subject Genao said he wrote it, because he knew Suspect [redacted] had the loaded handgun on his person and there was no one else that had a handgun, other than him.

I asked him if the statement on the PCD was accurate or another mistake on his part. He said it was not accurate it was a mistake, just like his report.

Sergeant Carrizosa asked Subject Genao if it was a mistake or a short cut. Subject Genao said it was a mistake and "he could have been more detailed and more clear on it, but PCD's are supposed to be short and simple." He said when he wrote "concealed on his person", he knew it was concealed on his person, because he "saw him reach in his waistband and it was concealed in his waistband prior to dumping the weapon."

I asked Subject Genao if at the time he submitted his PCD and ran the arrest by the Watch Sergeant if he had already decided in his mind that was how the report would be written, he said "No." I asked him if he made two mistakes that night, once on the PCD and once on the Incident Report, he said "Yes."

Sergeant Carrizosa asked him if it was because he had other things on his mind. Subject Genoa said he kept thinking how Suspect [redacted] chuckled when Subject Genao told him he had the drop on him. Subject Genao said he was not himself from that point on and knew it because he could not write the PCD, and other deputies were asking him if he was okay.

I asked him if he was scared during the contact with the suspects. Subject Genao said he has been scared before, but not like this. This encounter made him "see death" and he had never felt like that before and felt he was "given a second chance" to live.

I reviewed the Medical Screening Form, Bail Deviation, and Booking Slips with Subject Genao. Subject Genao said the information on the documents was true and accurate as given to him by the suspects at the time of booking.

I provided Subject Genao with copies of the photographs taken by Detective Smiley. Subject Genao looked at the photographs and placed an "x" where Suspect [redacted] was during the contact and the direction Suspect [redacted] ran.

Subject Genao recognized the photograph that depicted the area where the planter was located. He identified the steps mentioned during his interview and placed an "x" where he recovered the handgun. He also identified the trash can and the direction Suspect [redacted] ran when he hid from Subject Genao.

I showed Subject Genao a final photograph of a weapon. Subject Genao said that was the weapon he recovered from the planter. **(IAB Exhibit D)**

I asked Subject Genao what emotions he had when he received the call from Detective Smiley that morning. Subject Genao said he felt a load come off his chest. He did not try to deny anything and told him how the arrest happened. He did not remember making the statement to Detective Smiley regarding he just wanted to make the arrest stick.

Sergeant Carrizosa asked Subject Genao if when he authored the report he thought finding the weapon on the person would make a better case for the weapon possession. Subject Genao said that was something that never went through his head.

On May 30, 2017, the Court of Appeal decision was to ultimately deny the petition as untimely.

Therefore, Deputy Genao will be notified to return to work on July 17, 2017 and he will be assigned to Court Services West Bureau.

Please make any necessary changes in your records and to PRMS to reflect the Court of Appeal Decision. If you have any questions regarding this matter, please contact me at [redacted]

PR:liz

Attachments



Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 6, 2012

Deputy Daniel Genao, #[redacted]

Dear Deputy Genao:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business June 27, 2012.

An investigation under IAB File Number 2267238, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/040.70, False Statements; and/or 3-01/100.35, False Information on Records, on or about May 6, 2010, while on duty, you authored an incident report and/or a Probable Cause Declaration detailing false information resulting in the arrest of [redacted] and [redacted] as evidenced by but not limited to:

    a) preparing an Incident Report which indicated that a firearm was recovered from Mr. [redacted] waistband as opposed to a planter, and/or;

    b) preparing a Probable Cause Declaration which indicated that a firearm was recovered from Mr. [redacted] waistband as opposed to a planter, and/or;

    c) presenting a verbal account to Sergeant [redacted] that a firearm was recovered from Mr. [redacted] waistband as opposed to a planter.

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations and Orders; and/or 3-01/030.05, General Behavior, on or about May 6, 2010, while on duty, you authored an incident report and/or a Probable Cause Declaration detailing false information resulting in the arrest of [redacted] and [redacted] On or about June 8, 2010, the Sheriff's Department's Internal Criminal Investigation Bureau presented the case to the Los Angeles County District Attorney's Office, which resulted in filling of two counts of perjury (118.1 P.C. and 118(A) P.C.). On or about July 12, 2011, you appeared in Superior Court and plead "Nolo Contendere" to one misdemeanor count of 118.1 P.C., False Police Report. Your conduct has brought discredit and embarrassment upon yourself and the Los Angeles County Sheriff's Department.

Additional facts and grounds for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packets which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Thomas M. Laing, on June 25, 2012, at 1030 hours, in his office, which is located at Sheriff's Headquarters Building, 4700 Ramona Boulevard, Monterey Park, California 91754. If you are unable to appear at the scheduled time and wish to schedule some other time prior to June 25, 2012, at 1030 hours, for your oral response, please call Chief Laing's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Laing's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Laing's office by no later than June 25, 2012.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

John H. Clark, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

JHC:ah

c: Advocacy Unit
Employee Relations Unit
Chief Thomas Laing, Field Operations Region III
Internal Affairs Bureau
Office of Independent Review (OIR)
(File #2267238)



CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

April 21, 2015

FINAL DECISION

Subject of Hearing: *Petition of* **DANIEL GENAO** *for a hearing on his* **discharge**, *effective July 26, 2012, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 12-240** .

On March 11, 2015, the Commission's proposed decision in this matter was sent out for objections. The objections were to be filed with the Commission by April 6, 2015. No objections were timely filed.

Therefore, the following is the Commission's final decision in the matter:

SUSTAIN THE DEPARTMENT'S OBJECTIONS, IN PART, THE COMMISSION REJECTED THE HEARING OFFICER'S RECOMMENDATION TO NOT SUSTAIN THE DISCHARGE, AND PROPOSED A NEW DECISION TO IMPOSE A THIRTY (30) DAY SUSPENSION.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure, as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

c: Daniel Genao
Audra Call
Clifton Baker



LOS ANGELES COUNTY CIVIL SERVICE COMMISSION

In the Matter of the Appeal of	)	CASE NO. 12-240
	)	
DANIEL GENAO	)	PROPOSED FINDINGS OF FACT,
	).	CONCLUSIONS OF LAW AND
Appellant,	)	RECOMMENDATION
	)	
and	)	
	)	
LOS ANGELES COUNTY SHERIFFS' DEPARTMENT	)	
	)	
	)	
Respondent.	)	
	)	

APPEARANCES

For the Appellant:
Audra C. Call
Green & Shinee, A P.C.
16055 Ventura Boulevard, Suite 1000
Encino, CA 91436

For the Respondent:
Clifton Baker, Esq
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Hearing Officer: Jennifer B. Gardner, Esq.
Hearing Dates: May 7, June 7, July 9, and September 24, 2013
May 19, 2014

ISSUES

1. **Was the discipline appropriate?**

EXHIBITS

The Department and Appellants' exhibits are summarized on attachments "A" and "B" hereto, respectively.

INTRODUCTION

Appellant, Daniel Genao ("Appellant") was discharged from the position of Deputy Sheriff effective July 26, 2012 after fourteen (14) years of service as an exemplary patrol deputy.

The reasons for the discharge were set forth by the Department in its letter of intent dated June 6, 2012 (Department's Exhibit 2), and consisted of three false statements, including the writing of an Incident Report and a Probable Cause Declaration, and a verbal account to his Sergeant that during an arrest Appellant recovered a firearm from a suspect's waistband as opposed to from behind a planter.

Appellant was found to have violated the following of the Department's policies and procedures:

1. Manual of Policy and Procedures Section 3-01/050.10, Performance Standards;
2. Manual of Policy and Procedures Section 3-01/040.70, False Statements;
3. Manual of Policy and Procedures Section 03-01/100.35, False Information on Records;
4. Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders;
5. Manual of Policy and Procedures Section 3-01/030.05, General Behavior.

Following an investigation by the Department's Internal Criminal Investigation Bureau, Appellant was charged with two felony counts of perjury pursuant to Penal Code Sections 118.1 and 118(A). He pled "nolo contendere" to one misdemeanor count of 118.1 for filing a false police report.

Prior Work History

By all accounts, Appellant was an outstanding deputy. Numerous character witnesses testified in his favor. He consistently received "outstanding" or "very good" performance evaluations. (AE "J" and "K") Shortly before the incident he was [redacted] (AE "M") In his relatively short career, he had received two Departmental Commendations for excellent service. (AE "L") In 2009 he was Deputy of the Year at the annual Public Safety Appreciation Luncheon. (AE "N") In 2012, Appellant was given an Exemplary Service Award for work he had done while working for the Department in a civilian capacity during an IAB Investigation. (AE "O")

EVIDENCE

This matter involves a tragic error made by an exemplary deputy, resulting in his discharge. Appellant was discharged for intentionally falsely stating in an incident report and a probable cause declaration from where he recovered a suspect's weapon while making an arrest. Appellant wrote that he recovered the weapon from the waistband of the suspect, when in fact he recovered it from behind a nearby planter.

Appellant was charged with two counts of felony perjury. He subsequently pled "no contest" to one misdemeanor count for filing a false police report, after Chief Thomas Laing purportedly promised his Appellant's criminal defense attorney that the he would have his job back if he did. After Appellant entered his plea in reliance on this alleged promise, the Department discharged him.

Appellant contends that if not for the representations of his attorney and colleagues urging him to take the plea deal and assuring him that he would get his job back, he would have fought the criminal case because he did not "intentionally" write a false report.

During the administrative criminal and internal affairs investigations, Appellant was forthcoming about his error. Even before the investigations began, he was honest and contrite, as he admitted to the factual discrepancy as soon as he was questioned

about it by detectives. The primary issue here is whether the discharge was appropriate, given the numerous admissions of Appellant to his own false statements. [1]

On May 6, 2010, while conducting a patrol check of the parking lot of the Budget Inn Motel in a high-crime area, Appellant observed a male ([redacted]) and female ([redacted]) verbally arguing. Appellant stopped and exited his vehicle to perform a welfare check.

While he approached, [redacted] stated, "Come on, all I got is some meth." Appellant saw [redacted] reach for his waistband. This elevated Appellant's awareness. Appellant instinctively felt that [redacted] had a gun, and feared for his safety. Appellant drew his weapon and felt himself apply pressure on the trigger. Everything began to occur to Appellant as if in "slow motion."

Back at the station, while documenting what had transpired, Appellant was not clear about what he was writing. He struggled to write the report and the probable cause declaration. His thoughts were jumbled. He did not want to misstate or omit facts, but he wanted to document what had happened in the easiest and shortest way. (DE 4, p. 8 of 9) Appellant denied ***intentionally writing*** an untruthful report. Rather, he was not thinking. He just felt in a hurry to go home to his family, due to the stress from thinking that he had almost died. Patrol Deputy [redacted] observed Appellant after the incident as he wrote the report. Appellant appeared frustrated, stressed out and emotional. There were several crumpled sheets of paper next to where he sat.

In the incident report dated May 6, 2010, Appellant wrote that while conducting a search of [redacted] he *retrieved a loaded firearm from suspect* [redacted] *right side waistband* while arresting him at the hotel. (Department's Exhibit ["DE"] 9, p. 5 of 9) In the Probable Cause Determination Declaration dated May 6, 2010, Appellant also wrote that he "recovered a loaded firearm concealed on his person...." (DE 11) Later that day, Appellant allegedly gave the same verbal account to his watch commander, although this officer did not testify.

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[1] The Commission apparently certified for the Hearing Officer's determination the sole question of the reasonableness of the discipline, and did not grant Appellant's subsequent appeal to expand the issues.

Both the hotel manager and suspect's girlfriend, [redacted] gave a different account of where the firearm was recovered to detectives. [redacted] stated that the firearm was recovered from a nearby planter where suspect [redacted] had previously been standing. (See Witness Statements, DE #10) The hotel manager reported that he saw [redacted] walk towards the planter as Appellant's patrol car pulled up, and that he saw [redacted] make a "tossing motion" towards the planter.

On May 9, 2010, Appellant immediately admitted to a station detective when questioned that both witnesses were correct, that suspect [redacted] had in fact tossed the handgun in a planter and that he (Genao) recovered it from that planter after detaining [redacted] (DE 10, p. 4 of 5) He immediately felt great relief, although he did not recall exactly what he had written in the report.

Throughout the administrative investigation, Appellant consistently admitted that his reports were inaccurate, and willfully accepted responsibility. He showed remorse. Appellant explained during his IAB interview with Sergeant Hectór Velasquez that he "[j]ust wasn't thinking at the time when I wrote the report. I had other things on my mind and I wanted the report done, I wanted to go home." (DE 7, p. 3 of 27) Specifically, Appellant said that he knew or instinctively felt that the suspect had a gun based upon his experience. Appellant knew that the area was frequented by gang members and drug dealers. He wanted to be safe. He was concerned because he saw [redacted] go around a corner, he believed that the suspect [redacted] "had the 'drop'" on him. (DE 4 p. 7 of 9) There were two seconds when he lost sight of [redacted] and these were the longest two seconds of his life. (Ibid.) There were moments during the incident where events slowed down, he felt "frozen," lost his sense of sound and described a phenomenon commonly known as 'tunnel vision.'" (Ibid.) When he recovered the gun and discovered that it was loaded with one round in the chamber, he thought that bullet was intended for him. Appellant explained that he wanted to go home, to be safe, that he "saw death."

Appellant was prepared to fight the criminal case that was filed against him. He did not feel that he was guilty of a crime because he believed that he had made an "honest mistake." His criminal attorney assured him, as did many of his colleagues and superiors, that he would not lose his job. He even heard his lawyer confirm the Department's agreement with Chief Laing. Various deputies that showed up to support

him at the courthouse told him that he should take the deal if he wanted to get his job back. Two weeks after pleading to the misdemeanor, he was reinstated.

Appellant was shocked to receive notice of the Department's intend to discharge him. Even after he received the notice, Appellant kept being assured that he would get his job back. Chief Laing even called him at home and told him to hang in there. When Appellant received the final notice of discharge he was shocked because "a deal had been made."

Appellant's [redacted] also testified. They have been [redacted] for [redacted] and have [redacted] She described Appellant the night of the incident as arriving home earlier than usual and being "unusually quiet." After the incident he had emotional and sleeping issues, he was very distracted and "not himself." [redacted] testified that Appellant wanted to fight the criminal case and not plead to it. He did not want to agree to the charges because he felt they were untrue and unfair. However, his attorney told him to take deal because then everything would be fine. She and her [redacted] were shocked when he received the notice of discharge. Appellant had been reassured throughout the investigation that he would be reinstated. [redacted] emphasized her [redacted] is an honest, good man. He made a mistake and he owned up to it. He did not try to cover it up.

Numerous character witnesses testified for Appellant: Patrol Deputy [redacted] at Industry Station who has known Appellant for 15 years described Appellant as, "one of the top deputies I've ever worked with." He would work with him again "in a heartbeat." [redacted] a 33-year Department veteran and Captain of the Special Enforcement Bureau, previously the Captain of Industry Station, also testified that Appellant is an outstanding Deputy with a great attitude. Shortly before the incident, he promoted him to the rank of field training officer, the most important position in the station. Deputy [redacted] confirmed that Appellant is a great deputy and he does not think that he would intentionally write anything false in the report. Deputy [redacted] a good friend and one-time partner of Appellant's, said that he would have "no concerns" about having Appellant as his partner again.

[redacted]

[redacted]

3. The Decision Maker's Testimony

Chief Thomas Michael Laing was the Chief of Industry Station at the time of the incident, and the Decision Maker. He testified that the factors he considered when deciding to discharge Appellant consisted of Appellant's work history, the Department's policies and procedures, and primarily the harm to the Department and the public service as a consequence of Appellant's conduct.

Chief Laing read and listened to most of the interviews and read the case documents in the IAB file. The facts and circumstances surrounding the incident, including Appellant's state of mind during the incident and his cooperation during the ensuing investigations, did not override the need for him to have written an accurate report. He concluded that Appellant ***knowingly submitted false information*** into the incident report and probable cause declaration.

This was a very difficult decision for Chief Laing, especially given that Appellant had a family and many people liked him. During the pendency of the criminal case, after Appellant entered his plea in the criminal case, and while the internal criminal investigation was pending, Chief Laing allowed Appellant to work as a civilian employee. The Department also allowed him to work as a sworn deputy during the IAB investigation. The IAB investigation concluded in approximately February, 2012, after which time Chief Laing reviewed the final report of their investigation.

Chief Laing consulted with Captain Mike Kalus, William Ryan and the Office of Independent Review before making his final decision. He gave a lot of thought to Genao's performance. He felt compassion for him. However, he was concerned that this violation would ultimately jeopardize the credibility of Appellant's testimony in future cases as Appellant would be known as a "Brady" or a "Pitchess" deputy. Chief Laing felt obligated to protect the public. False statements in reports compromise the criminal justice system and cause a disservice to the public, as they undermine the public trust in law enforcement and the criminal justice system. For this reason, lesser discipline was not warranted.

The Department was under intense scrutiny at the time of his decision. Chief Laing conceded that he reconsidered his initial inclination to allow Appellant to keep his job after being implored by Appellant's attorney. He later found out that the criminal lawyer had misrepresented to Appellant that he had "promised" to not discharge him – a statement that was never true. Chief Laing was very upset to learn this.

When deciding Appellant's fate, Chief Laing did not consider Appellant's "exemplary service" award. He did not recall whether he considered the commendations that Appellant received. Chief Laing conceded that there are other deputies on the force who have "Brady issues."

Chief Laing considered the Department's Psychology of Discipline. He also reviewed the Guidelines for Discipline (AE G). For false statements, recommended discipline ranges from 10 days to discharge. For False Information in Records, discipline ranges from 15 days to discharge. For violations of obedience to laws, regulations and orders, performance to standards and general behavior, the standard discipline for this section can range from a written reprimand to discharge depending upon the totality of the circumstances. Still, Chief Laing chose discharge.

DISCUSSION

1. The Allegations Contained In The Department's Letter Of June 28, 2012 Are True And Relevant To A Consideration Of The Reasonableness And Appropriateness Of The Discipline Consisting Of The Discharge Of Appellant.

The Civil Service Commission did not certify this issue for the Hearing Officer to decide. Appellant claims that this was due to his "in pro per" status at the time that the issues were certified. He subsequently attempted unsuccessfully to amend his appeal.

Nevertheless, the above-facts which were adduced at the hearing are included in this decision because it is impossible to decide the reasonableness of the discipline without an understanding of them. There can be no reasonable basis for a decision on the issue of the appropriateness of the discipline without an understanding of these facts.

The evidence produced at trial showed that that Appellant did in fact falsely state in the incident report and probable cause declaration that he recovered a firearm from the suspect's waistband rather than from behind a planter. Appellant admitted he took a "stupid shortcut," but credibly stated that he did not intentionally lie when writing the report and declaration. There was not sufficient evidence from which the Hearing Officer could find that Appellant intentionally misrepresented the facts to his watch commander. Appellant immediately told the truth to detectives investigating the incident, as well as during the internal criminal and administrative investigations. The additional facts which are relevant to the Hearing Officer's ultimate conclusion are summarized below.

2. Was The Discipline Appropriate?

This is the type of case that causes sleepless nights. When law enforcement is dishonest, it violates the public trust, harms the public service, and undermines the integrity of the criminal justice system. Deputies must be honest. They must accurately and truthfully report the facts and circumstances surrounding an incident resulting in an arrest. Public trust and safety depends on this. However, where as here an exemplary deputy does not attempt to cover up his lie but rather immediately admits the truth and offers ***a cogent psychological explanation for why he misstated the evidence***, the decision is especially difficult to make. Here, Deputy Appellant falsely

reported the incident. The issue is how willful or knowing he was when he did so or whether there is some justification or excuse for his transgression.

The Hearing Officer is fully aware that this decision must not exceed the bounds of reason or exhibit indifference to public trust and safety. Still, she must also consider the relevant circumstances surrounding the misconduct, including the likelihood of recurrence. *Kolender v. San Diego County Civil Service Commission* (2005) 132 Cal.App.4th 716.

The relevant circumstances here include the psychological factors that Appellant experienced at the time of the incident, and his forthrightness and contriteness immediately afterwards and during the internal criminal and administrative investigations. The Hearing Officer believes based upon the testimony of the numerous character witnesses, that the chance is slight that Appellant will repeat this mistake. This is especially so given the supportive testimony of Appellant's colleagues, each of whom would not hesitate to risk their own careers to serve with him again.

Furthermore, Appellant relied upon the advice of his attorney (who was subsequently disbarred for, *inter alia*, failing to truthfully advise his clients due to his fear of being the bearer of bad news) in deciding to plead to criminal charges he preferred to fight. This circumstance is critical to what happened here. Had Appellant not plea-bargained his case in reliance on his attorney's advice, he very well might have fought that case and won. If he won, the Department could have more readily reinstated him as Appellant would pose less of a *Pitchess* or a *Brady* threat in future proceedings. Instead, Appellant was a victim of an unethical lawyer who falsely told him that Chief Laing "promised" to reinstate Appellant if Appellant pled to a misdemeanor.

Even if Appellant intentionally misrepresented the facts when he wrote the report and declaration, he immediately admitted this error when questioned by detectives and during the subsequent internal administrative and criminal investigations. Thus, this case is unlike *Kolender, infra*, relied upon by the Department, where the deputy there was new, on probation, and attempted during an investigation to *cover up* his colleague's physical abuse of an inmate. Unlike the deputy in *Kolender*, Appellant has a 14-year, illustrious history. He did not attempt a cover up. If reinstated, Appellant certainly will not be the first deputy on the force with *Pitchess* and

Brady issues. It is less likely that these issues will arise if Appellant is reinstated to a non-patrol assignment. There are many ways in the future that Appellant can serve the public and the Department.

Appellant introduced the July 30, 2007 "Psychology of Discipline" authored by Lee Baca. Relevant to this determination is this language:

> " Ineffective discipline is when we fail to be fair. Not listening to why Department members have acted in violation of a policy is widely believed to be unfair.... The focus of discipline should be on creation of a corrective action plan rather than punishment for punishment's sake. The plan should emphasize training and remediation along with more creative interventions designed to correct deficits in performance and maximize the likelihood of the Department member and his or her peers responding appropriately in the future." (AE F)

For each of the policies that Appellant violated, the applicable discipline ranges from written reprimand, 10-15 days suspension to discharge. The Hearing Officer finds that the discipline imposed was unfair and excessive given his prior employment history, his acceptance of responsibility and remorse for his actions, and the fact that the Department's own psychology of discipline favors corrective rather than punitive action.

FINDINGS OF FACT

1. At the time of his discharge, Appellant was permanently employed with the Los Angeles County Sheriff's Department and assigned to Industry Sheriff's Station.

2. On July 26, 2012, the Department discharged Appellant from service after 14 years of service.

3. Appellant was an exemplary deputy who had received positive performance evaluations, been [redacted] shortly before the incident, been awarded two commendation for excellent service, been awarded an Exemplary Service Award, and was a 2009 Deputy of the Year.

4. Appellant had no negative prior work history and had not received any prior discipline.

5. On May 6, 2010, while on patrol, Appellant arrested a suspect while making a routine patrol check of the Budget Inn Motel in La Puente.

6. Following the arrest, Appellant falsely wrote in an incident report and probable cause declaration that he retrieved a loaded firearm from a suspect's waistband, as opposed to behind a planter.

7. Appellant immediately admitted to detectives that he had misstated in the incident report and probable cause declaration from where he recovered the loaded firearm.

8. Appellant thereafter cooperated with the ensuing internal criminal and internal affairs investigations. He took responsibility for his misstatements, was remorseful, and did not attempt to lie or cover them up.

9. Appellant explained that he made the misstatement not intentionally, but because of the psychological stress known as "tunnel vision" that he felt at the time of the incident which led him to take a "stupid shortcut" in writing the report at the station, due to the extreme stress he felt and his urgency to return home to his family.

10. Appellant subsequently pled no contest to a misdemeanor of filing a false police report.

11. Appellant pled no contest in reliance on his lawyer's representation that Chief Laing "promised" he would get his job back if he did so.

12. Chief Laing denied making this promise to Appellant's lawyer.

CONCLUSIONS OF LAW

1. Appellant violated Department Manual of Policy and Procedures Section 3-01/050.10, Performance Standards;

2. Appellant violated Department Manual of Policy and Procedures Section 3-01/040.70, False Statements;

3. Appellant violated Department Manual of Policy and Procedures Section 03-01/100.35, False Information in Records;

4. Appellant violated Department Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders;

5. Appellant violated Department Manual of Policy and Procedures Section 3-01/030.05, General Behavior.

9. The discipline imposed was unfair and excessive and in accordance with both Civil Service Rule 18.031 and the Department's Guidelines for Discipline (see Department's Exhibit 10)

RECOMMENDATION

The Hearing Officer finds that the Department's discipline is excessive within the meaning of the Department's policies, procedures and guidelines, and she recommends that the Commission overrule the Department's decision to discharge Appellant, and reinstate him retroactive to the date of discharge.

Respectfully submitted,

DATED: August 4, 2014

Jennifer B. Gardner, Hearing Officer



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



Jim McDonnell, Sheriff

May 15, 2015

Deputy Daniel Genao, #[redacted]

Dear Deputy Genao:

On July 30, 2012, you were served with a Letter of Imposition under File Number 2267238, notifying you that you were discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on July 26, 2012.

On April 21, 2015, the discipline was reduced pursuant to a final Civil Service decision. All Departmental records will reflect that you received a thirty (30) day suspension. The thirty (30) day suspension will be deemed served July 27, 2012 through August 25, 2012.

Pursuant to the Civil Service decision, the investigation under IAB File Number 2267238, conducted by Internal Affairs Bureau, coupled with your own statements, have established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/040.70, False Statements; and/or 3-01/100.35, False Information in Records, on or about May 6, 2010, while on duty, you authored an incident report and/or a Probable Cause Declaration detailing false information resulting in the arrest of [redacted] and [redacted] as evidenced by but not limited to:

   a) preparing an Incident Report which indicated that a firearm was recovered from Mr. [redacted] waistband as opposed to a planter, and/or;

   b) preparing a Probable Cause Declaration which indicated that a firearm was recovered from Mr. [redacted] waistband as opposed to a planter, and/or;

c) presenting a verbal account to Sergeant Crieghton that a firearm was recovered from Mr. [redacted] waistband as opposed to a planter.

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations and Orders; and/or 3-01/030.05, General Behavior, on or about May 6, 2010, while on duty, you authored an incident report and/or a Probable Cause Declaration detailing false information resulting in the arrest of [redacted] and [redacted] On or about June 8, 2010, the Sheriff's Department's Internal Criminal Investigations Bureau presented the case to the Los Angeles County District Attorney's Office, which resulted in filing of two counts of perjury (118.1 P.C. and 118(A) P.C.). On or about July 12, 2011, you appeared in Superior Court and plead "Nolo Contendere" to one misdemeanor count of 118.1 P.C., False Police Report. Your conduct has brought discredit and embarrassment upon yourself and the Los Angeles County Sheriff's Department.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Donnie L. Mauldin, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

DLM:PR:liz

c: Advocacy Unit
Employee Relations Unit
Personnel Administration
Buddy Goldman, Chief, East Patrol Division
Industry Station/Personnel File
Internal Affairs Bureau (File #2267238)